IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

Crl.MC.No. 1061 of 2007()

STC.4/2005 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD

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PETITIONER: ACCUSED 1 & 3:

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1. P.NARAYANAN NAIR, S/O KRISHNAN NAIR,
   MARGIN FREE MARKET, KASARAGOD, RESIDING AT
   VAKLIYA COCHI HOUSE, PAKKAM P.O.

2. GARDEN FRESH CONDIMENT REP.BY ITS
   QUALITY CONROLLER RAJESH.R.KARTHA,
   S/O.K.R.RAMACHANDRA KARTHA,
   XII-486A, A.M.ROAD, PERUMBAVOOR 683542.

BY ADV. SRI.M.THAMBAN

RESPONDENTS: COMPLAINANT

SATE OF KERALA REP.BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1061 of 2007

Dated this the 30th day of March 2007

O R D E R

The petitioner faces indictment in a prosecution for the offences punishable under the Prevention of Food Adulteration Act. The petitioner had entered appearance and was enlarged on bail but later as there was no representation for the petitioner when the matter came up for trial, the learned Magistrate issued a non-bailable warrant to procure the presence of the petitioner. According to the petitioner, his absence earlier was not wilful and on account of reasons beyond his control. The petitioner now wants to surrender before the learned Magistrate. The learned counsel for the petitioner submits that the petitioner apprehends that his application for bail may not be considered on merits, in accordance with law and expeditiously by the learned Magistrate. He, therefore, prays that the directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the

circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339].

3. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are exceptional and compelling reasons.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006